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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,651	11/02/2000	Pierre Bernas	198944US	1241
22850	7590	08/06/2007	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			DUONG, DUC T	
1940 DUKE STREET			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22314			2616	
NOTIFICATION DATE		DELIVERY MODE		
08/06/2007		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/673,651	BERNAS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Duc T. Duong	2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 April 2007.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 11-14 is/are allowed.

6)  Claim(s) 1-9 and 15-22 is/are rejected.

7)  Claim(s) 10 and 22 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-8, 15-21, and 23-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In the Remarks/Arguments on page 8 of the amendment filed on October 2, 2006, applicants stated the disclosure in page <sup>4 lines</sup> <sub>3-16</sub> provides support for the limitation “**a network load is distributed to each non-faulty splitting device such that the bit rate increase in each non-faulty splitting device is less than the nominal bit rate**”. However, the examiner has thoroughly reviewed the disclosure and find no teaching of such limitation. Furthermore, the disclosure fails to identify specifically what the “**network load**” is exactly. Thus, the examiner would like applicant point out where and which passage teaches such limitation.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morales et al (US Patent 4,847,837) in view of Sandesara (US Patent 5,327,427), further in view of McLain, Jr. (US Patent 5,748,617).

Regarding to claims 1, 2, and 15, Morales discloses a network 10 for distributing information between a central unit 30 and stations 16 (fig. 1), comprising information splitting devices 18 with inputs/outputs connected to the central unit 30 and to the stations 16, an interface device 20-22 in each stations 16, wherein the interface device 20-22 of each station 16 is linked to a first splitting device 18 and to a second splitting device 18 (fig. 1 col. 2 lines 44-54; noted the first and second splitting devices lie along LAN 1 and LAN 2, respectively), and the plural interface devices 20-22 are mounted in cascade on a link starting from the splitting device (fig. 1; shown interface devices 20-22 are connect in series starting from a splitting devices 18 on LAN 1 or LAN 2).

Morales fails to teach each station is linked to the second splitting device via the interface device of one additional station.

However, Sandesara discloses a communication network 304 with fault detection of link failure or node failure comprising a plurality of nodes 311-330 mounted in cascade form, wherein each node is connected to a first cross connect node 320 (first splitting device) and to a second cross node 330 (second splitting device) via an additional node (node 314 and 316 is connect to cross connect node 330 via node 315 and 317, respectively), see fig. 3 col. 4 lines 30-56.

Thus, it would have been obvious to a person of ordinary in the art, at the time of the invention, to arrange each station or node 311-330 to connect to a second splitting

device (cross connect nodes 320 and 330) via one additional station as taught by Sandesara in Morales's system to form multiples logical rings structure for balancing communication traffic between nodes.

Morales in view of Sandesara fail to teach each splitting device is configured to support a higher rate than the nominal bit rate of the splitting device.

However, McLain discloses an apparatus for testing and monitoring a telecommunication network, wherein each node 101 can operate at different rates (fig. 1 col. 5 lines 27-30).

Thus, it would have been obvious to a person of ordinary skill in the art to employ such rates of operation as taught by McLain in Morales in view of Sandesara's system to provide flexibility, such as load balancing, in handling changes of network condition.

Regarding to claims 3 and 16, Morales discloses a means for detecting a fault relating to a problem on a link between this interface device 20-22 and the first or the second splitting device 18 (col. 2 lines 59-63).

Regarding to claims 4 and 17, Morales discloses the means for detecting faults comprises means for mutual acknowledgement with the central unit 30 (col. 8 lines 2-7).

Regarding to claims 5 and 18, Morales discloses a device for switching over from the first splitting device to the second splitting device (col. 7 lines 61-63; switch from switching device 18 on LAN 1 to switching device 18 on LAN 2).

Regarding to claims 6 and 19, Morales discloses the switching device is in the central unit 30 (col. 7 lines 57-61).

Regarding to claims 7 and 20, Morales discloses a link between a splitting device and an interface device is effect with a cable having two twisted conductors (col. 2 lines 45-47).

Regarding to claims 8 and 21, Morales discloses a splitting device (splitting device 18 on LAN 1 or LAN 2) is linked by a link to one of its inputs/outputs to a single special interface 20-22 (NET 1 or NET 2 of internet router 24), this special interface device 20-22 being linked by another link connected to another input/output of another splitting device (fig. 1 col. 2 lines 51-58).

Regarding to claims 9 and 22, Morales discloses all the limitation with respect to claims 1 and 15, except for the splitting device capable of supporting a bit rate greater than a nominal bit rate. However, Sandesara discloses the cross connect nodes 320 and 330 (splitting device) capable of supporting different rates (fig. 3 col. 5 lines 60-66). Thus, it would have been obvious to a person of ordinary skill in the art to employ the splitting device 320 and 330 as taught by Sandesara in Morales's system to provides different type of transmission facility such as copper, optical fiber, or radio.

#### ***Response to Arguments***

5. Applicant's arguments filed April 20, 2007 have been fully considered but they are not persuasive. Regarding to applicant's argument on pages 2-3 with respect to 35 U.S.C 112 first paragraph rejection, the support for the subject matter "a network load is distributed to each non-faulty splitting device such that the bit rate increase in each non-faulty splitting device is less than the nominal bit rate" is shown on page 4, lines 3-16. In response, the examiner do agreed with the applicant the passage cited indeed teach

of evening out the bit rates of the splitting devices by increasing the rates to be less than the nominal bit rate. However, the passage fails to teach the limitation occurred when the central unit determines there is faulty in the terminal, the interface, or splitting device. It seem the evening out of the bit rates occurred to limit the overdimensioning, which has no correlation to determining faults. Thus, based on the reasons set forth here the rejections are maintained.

***Allowable Subject Matter***

6. Claims 10 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 11-14 are allowed.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD

DD

  
WING CHAN 7/31/07  
SUPERVISORY PATENT EXAMINER